

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6843

BILL NUMBER: SB 305

NOTE PREPARED: Jan 8, 2014

BILL AMENDED:

SUBJECT: Schedule I Drugs and "Spice".

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes compounds currently classified as synthetic drugs Schedule I Controlled Substances.

It makes conforming amendments and repeals obsolete provisions.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Criminal Penalties:* The definition of a synthetic drug is applied to Schedule I controlled substances. This would change the penalty for an offender found guilty of dealing in or possession of a synthetic drug. [Under current law, the dealing statute includes synthetic cannabinoids which would be repealed. There is no history of admissions to state correctional facilities for these offenses as the synthetic drug crimes were established in 2013.]

Dealing: The bill repeals the crime of dealing in a synthetic drug or synthetic drug lookalike substance, a Class A infraction or a Class A misdemeanor or Class D felony in certain circumstances. Instead, it would be dealing in a Schedule I, II, or III controlled substance, a Level 4 or Level 5 felony, depending on the quality involved.

Possession: The repeal of possession of a synthetic drug or synthetic drug lookalike substance is a Class B infraction, or a Class D felony depending on prior convictions. Possession of a controlled substance is a Class A misdemeanor, or a Level 6 felony based on enhancing circumstances.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail, or

instead of paying a judgement.

The term of incarceration in a state correctional facility for a Level 4 felony is from 2 to 12 years, for a Level 5 felony is from 1 to 6 years, and for a Level 6 felony is from 6 to 30 months. Offenders found guilty of misdemeanors may be incarcerated in county jails, and infractions do not include terms of incarceration in the penalty.

The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost per offender for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$77,489 in FY 2013.

Pharmaceutical Board: Under current law, the Pharmaceutical Board may declare that a substance is a synthetic drug. Under the bill, the Pharmaceutical Board would be able to declare a substance a controlled substance.

Noncriminal Provisions: The bill would repeal provisions under current law that separately address either synthetic drugs or synthetic cannabinoids. While the provisions concern the actions of state agencies, the overall impact is expected to be minimal because Schedule I controlled substances are subject to many of the restrictions that are imposed in the sections that would be repealed under the bill.

Additional Information: Under the bill, noncriminal provisions concerning synthetic drugs, substances, and cannabinoids would be repealed. A brief description of the code site is shown in the table below.

Code Site	Brief Description
IC 4-6-3-4	Attorney General access to records if investigation concerns synthetic drugs.
IC 6-2.5-8-7	Department of Revenue revocation of retail sales, manufacturer or wholesaler, or tax-exempt purchaser certificate subject to a public hearing pertaining to synthetic drugs.
IC 16-31-3	Department of Homeland Security certification or licensing of EMS providers.
IC 20-28-5-8	Teacher certification.
IC 22-15-5-16	Lifting device practitioners.
IC 25-1-1.1	Professional and occupational licenses.
IC 32-30-8	Attorney General role in drug nuisances.
IC 34-24-1-1	Seizures and forfeitures (removes synthetic cannabinoids which would be covered under the bill as a Schedule I controlled substance).

Explanation of State Revenues: *Criminal Penalties:* More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a felony is \$10,000. The maximum judgment for a Class A infraction is \$10,000 and for a Class B infraction is \$5,000, which is deposited in the state General Fund.

Court fees for both misdemeanors and felonies are \$120, while court fees for infractions are \$70.

Explanation of Local Expenditures: If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120 and the court fees for infractions are \$70.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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